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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,080	11/27/2000	Ulrich Hetzer	P00,1839	4251

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EXAMINER	
HAMILTON, LALITA M	
ART UNIT	**PAPER NUMBER**
3624	

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/723,080	HETZER ET AL.	
	Examiner	Art Unit	
	Lalita M Hamilton	3624	MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *amendment filed on March 1, 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Summary

On December 16, 2003, an Office Action was sent to the Applicant rejecting claims 1-31. On March 1, 2004, the Applicant responded by adding new claims 32-37.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 16-17, 32, and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita (5,132,729) in view of Storch (5,367,148), as set forth in the previous Office Action, paper no.7.

With regard to the amendment adding new claims 32 and 34-37, Matsushita discloses operating said device through a plurality of cycles with a consumable in said device that is incrementally depleted in each cycle, and recognizing a need to replace said consumable, as a depleted consumable, in said device by generating and storing a running count of an item associated with said incremental depletion over said plurality of cycles, and indicating a need to replace said consumable when said running count reaches a predetermined level (col.5, lines 23-68); striking said one of said reference code numbers from the reference code number range stored in said device (col.4, line 60 to col.5, line 68); determining a presence of a consumable in said device by detecting an occurrence of an event associated with depletion of said consumable

(col.5, lines 20-67); said event is reactivation of said device after shutdown of said device (col.5, lines 25-68); and wherein said device is a thermal printer and wherein said consumable is a cassette containing a thermal transfer inking ribbon that is transported in said cassette by a first length for printing an image and that is transported by a second length, substantially smaller than said first length, between printing of successive images, and wherein said event is transport of said thermal transfer inking ribbon by said second length (col.2, line 53 to col.4, line 35 and fig.1—all).

Claims 5-9 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Matsushita and Storch as applied to claims 1 and 32 above, and in further view of Brookner (WO/97/40480), as set forth in the previous Office Action.

With regard to the amendment adding new claim 33, Matsushita discloses and Storch teaches the invention substantially as claimed; however, neither reference discloses nor teaches a printer for franking imprints and wherein said item count is a number of said franking imprints. Brookner teaches a system for providing early warning replacement comprising a printer for franking imprints and wherein said item count is a number of said franking imprints (p.4, lines 20-30 and fig.1-all). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a printer for franking imprints and wherein said item count is a number of said franking imprints, as taught by Brookner into the system and method disclosed by Matsushita and taught by Storch, to demonstrate that an alternative type of print may be made and that the method may be incorporated into another type of printing system.

Claims 10, 22, and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita, Storch, and Brookner, as applied to claims 7 and 18 below, and in further view of French (EP 0825564), as set forth in the previous Office Action.

Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita and Storch as applied to claim 1 above, and in further view of French, as set forth in the previous Office Action.

Claims 18, 20, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita in view of Storch and Brookner, as set forth in the previous Office Action.

Claims 19, 21, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita, Storch, and Brookner as applied to claims 18 and 20 above, and in further view of Phillips (WO 98/04414), as set forth in the previous Office Action.

Response to Arguments

Applicant's arguments filed March 1, 2004 have been fully considered but they are not persuasive. The Applicant has argued that there is no identification number for the device that is employed at all, because there is no attempt in the Matsushita reference to limit or control the number of replacement items that can be used by a given device and that no numbers are consumed. In response, as the device disclosed by Matsushita "reads" the code numbers, it may be broadly interpreted as "consuming" them as it goes along in the process. The device is essentially "consuming" the

numbers each time it goes through the process of matching the codes (see also fig.5-all). Therefore, the Examiner is interpreting Matsushita as reading onto the invention substantially as claimed.

The Applicant has further argued that Matsushita does not disclose that the manufacturer's code be unique for every apparatus. In response, Matsushita discloses that the confidential numbers are added to the manufacturer's code for each product (col.4, lines 1-10 and 60-68), thus making each code unique for each product. Further, it is inherent that the manufacturer's code may be unique for every apparatus in order to prevent unauthorized access by allowing others to obtain the code due to the code being the same for every product (col.4, line 60 to col.5, line 23).

With regard to Storch and the remaining references, the Applicant has argued that the rejections should be withdrawn for the same reasons addressed above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMH

RICHARD WEISSBERGER
PRIMARY EXAMINER